

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 68, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 27-1-2-3.5 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5 1, 2009]: **Sec. 3.5. Unless and to the extent limited or prohibited in**
- 6 **the articles of incorporation or bylaws of a corporation, IC 26-2-8**
- 7 **applies to this article.**
- 8 SECTION 2. IC 27-1-7-1.3 IS ADDED TO THE INDIANA CODE
- 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 10 1, 2009]: **Sec. 1.3. As used in this chapter, "deliver" or "delivery"**
- 11 **means any method of delivery used in conventional commercial**
- 12 **practice, including delivery by hand or mail, commercial delivery,**
- 13 **and electronic transmission.**
- 14 SECTION 3. IC 27-1-7-1.5 IS ADDED TO THE INDIANA CODE
- 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 16 1, 2009]: **Sec. 1.5. As used in this chapter, "electronic transmission"**
- 17 **or "electronically transmitted" means any process of**
- 18 **communication not directly involving the physical transfer of**
- 19 **paper that is suitable for retention, retrieval, and reproduction of**
- 20 **information by the recipient.**
- 21 SECTION 4. IC 27-1-7-1.7 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. As used in this chapter, "sign" or "signature" means:**

- (1) a manual, facsimile, or conformed signature; or**
- (2) an electronic signature (as defined in IC 26-2-8-102).**

SECTION 5. IC 27-1-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) All meetings of shareholders, members, or policyholders shall be held within this state and at the principal office of the corporation, unless otherwise provided in the articles of incorporation.

(b) An annual meeting of shareholders, members, or policyholders shall be held within five (5) months after the close of each fiscal year of the corporation and at such time within that period as the bylaws may provide. The failure to hold the annual meeting at the designated time shall not work any forfeiture or a dissolution of the corporation. The time and place of such annual meeting of a mutual company may be stated in the policies thereof or notice of such meeting shall be given as provided in subsection (d).

(c) Special meetings of the shareholders, members, or policyholders may be called by the president, by the board of directors, by shareholders, members, or policyholders holding not less than one-fourth (1/4) of all of the shares or policies outstanding and entitled by the articles of incorporation to vote on the business proposed to be transacted thereat, or by such other officers or persons as the bylaws may provide.

(d) A written or printed notice stating the place, day, and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the secretary, or by the officers or persons calling the meeting, to each shareholder, member, or policyholder of record, entitled by the articles of incorporation and by this article to vote at such meeting, at such address as appears upon the records of the corporation: ~~at least thirty (30) days before the date of the meeting.~~

- (1) if subdivision (2) does not apply, at least ten (10) business days; or**
- (2) if notice is mailed by other than first class or registered mail, at least thirty (30) business days but not more than sixty (60) business days;**

before the date of the meeting. Notice by electronic transmission is written notice. Notice of any meeting of the shareholders, members, or policyholders may be waived in writing by any shareholder, member, or policyholder if the waiver sets forth in reasonable detail the

purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

(e) Unless otherwise provided in the articles of incorporation or by the provisions of this article or the bylaws, at any meeting of the shareholders, members, or policyholders, a majority of the shares of the outstanding capital stock entitled by the articles of incorporation to vote at such meeting or in the case of a company other than a stock company, not less than ten percent (10%) of the policyholders or members entitled to vote at such meeting, represented in person or by proxy, shall constitute a quorum.

(f) Unless otherwise provided in the articles of incorporation or bylaws, action to be taken at a meeting of shareholders, members, or policyholders may be taken without a meeting if the action is taken by all the shareholders, members, or policyholders entitled to vote on the action. **Actions taken without a meeting under this subsection are organic actions (as defined in IC 26-2-8-102).** The action must be evidenced by one (1) or more written consents, **which includes consents signed by electronic means**, that:

- (1) describe the action taken;
- (2) are signed by all the shareholders, members, or policyholders entitled to vote on the action; and
- (3) are delivered to the corporation for inclusion in the minutes or for filing with the corporate records.

(g) The record date for determining shareholders, members, or policyholders entitled to take action without a meeting is the date the first shareholder, member, or policyholder signs the consent under subsection (f).

(h) Action taken under subsection (f) is effective when the last shareholder, member, or policyholder signs the consent, unless:

- (1) the consent specifies a different prior or subsequent effective date, in which case the effective date is the date specified in the consent; or**
- (2) the consent does not specify a different prior or subsequent effective date and action taken under subsection (f) is taken electronically in accordance with IC 26-2-8, in which case the effective date is determined in accordance with IC 26-2-8.**

(i) A consent signed under subsection (f) has the effect of a meeting vote and may be described as a meeting vote in any document.

SECTION 6. IC 27-1-7-8 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except as otherwise provided

in the articles of incorporation or in this section, every shareholder in a stock insurance company shall have the right, at every shareholders' meeting, to one (1) vote for each share of stock standing in his name on the books of the corporation. No share shall be voted at any meeting:

(1) which shall have been transferred on the books of the corporation within such number of days, not exceeding fifty (50), next preceding the date of such meeting as the board of directors shall determine, or, in the absence of such determination, within ten (10) days next preceding the date of such meeting; or

(2) which belongs to the corporation that issued it.

(b) Shares standing in the name of a corporation, other than the issuing corporation, may be voted by such officer, agent or proxy as the board of directors of such corporation may appoint or as the by-laws of such corporation may prescribe.

(c) Shares held by fiduciaries may be voted by the fiduciaries in such manner as the instrument or order appointing such fiduciaries may direct. In the absence of such direction, or the inability of the fiduciaries to act in accordance therewith, the following provisions shall apply:

(1) Where shares are held jointly by three (3) or more fiduciaries, such shares shall be voted in accordance with the will of the majority.

(2) Where the fiduciaries, or a majority of them, can not agree, or where they are equally divided upon the question of voting such shares, any court having general equity jurisdiction may, upon petition filed by any of such fiduciaries, or by any party in interest, direct the voting of such shares as it may deem to be for the best interest of the beneficiaries, and such shares shall be voted in accordance with such direction.

(d) Unless otherwise provided in the agreement of pledge, or in the by-laws of the corporation, shares that are pledged may be voted by the shareholder pledging such shares until the shares shall have been transferred to the pledgee on the books of the corporation, and thereafter such shares may be voted by the pledgee.

(e) Shares issued and held in the names of two (2) or more persons shall be voted in accordance with the will of the majority, and if a majority of them can not agree, or if they are equally divided as to the voting of such shares, the shares shall be divided equally between or among such persons for voting purposes.

(f) A shareholder, including any fiduciary, may vote either in person or by proxy ~~executed in writing~~ **signed** by the shareholder or a duly authorized attorney in fact. Unless a longer time is expressly provided

1 therein, no proxy shall be valid after eleven (11) months from the date
2 of its execution.

3 SECTION 7. IC 27-1-7-9 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: Sec. 9. Except as otherwise provided in
5 the articles of incorporation, every policyholder or member, in all
6 companies other than stock companies, shall have the right to one (1)
7 vote at every policyholders' or members' meeting, regardless of the
8 number of policies or amount of insurance ~~he~~ **the policyholder or**
9 **member** may have with such company.

10 Any policyholder or member may vote either in person or by proxy
11 ~~executed in writing~~ **signed** by the policyholder or by a duly authorized
12 attorney in fact. Unless a longer time is expressly provided therein, no
13 proxy hereafter given shall be valid after eleven (11) months from the
14 date of its execution."

15 Page 2, line 34, after "bylaws." insert **"Notice by electronic**
16 **transmission is written notice."**

17 Page 3, line 3, strike "a" and insert **"one (1) or more"**.

18 Page 3, line 3, delete "or electronic".

19 Page 3, line 3, strike "consent" and insert **"consents, which include**
20 **consents signed by electronic means,"**.

21 Page 3, line 4, strike "is" and insert **"are"**.

22 Page 3, line 6, delete "or electronic".

23 Page 3, line 6, strike "consent is" and insert **"consents are"**.

24 Page 3, between lines 7 and 8, begin a new line blocked left and
25 insert:

26 **"Actions taken without a meeting under this subsection are organic**
27 **actions (as defined in IC 26-2-8-102)."**

28 Renumber all SECTIONS consecutively.
 (Reference is to SB 0068 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Paul, Chairperson